



CITY OF BATTLE CREEK
COMMUNITY SERVICES DEPARTMENT – PLANNING and ZONING

**MEETING NOTICE OF THE
ZONING BOARD OF APPEALS**

DATE: Tuesday, August 13, 2019
TIME: 4:00 p.m.
PLACE: Room 301, City Hall (Commission Chambers)

- 1. CALL TO ORDER:**
- 2. ATTENDANCE:**
- 3. ADDITIONS OR DELETIONS TO AGENDA:**
- 4. CORRESPONDENCE:**
- 5. OLD BUSINESS:**
- 6. NEW BUSINESS:**

A. Z-10-19, Petition for a dimensional variance to permit the construction of detached accessory building in a water front yard, 8' from a side lot line and approximately 5' from the water front property line on Goguac lake at 614 Jennings Landing in an R-1B zoning district.

- 7. APPROVAL OF MINUTES: June 11, 2019**
- 8. COMMENTS BY THE PUBLIC:**
- 9. COMMENTS BY THE MEMBERS:**
- 10. ADJOURNMENT:**

The City of Battle Creek will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered in the meeting upon notice to the City of Battle Creek. Individuals with disabilities requiring auxiliary aids or services should contact the City of Battle Creek by writing or calling the following: Office of the City Clerk, P. O. Box 1717 / 10 North Division - Suite 111, Battle Creek, MI 49016 / Phone: (269) 966-3348 (Voice) / (269) 966-3348 (TDD)

ZONING BOARD OF APPEALS
MEETING MINUTES
June 11, 2019
4:00 P.M.

CALL TO ORDER:

Mr. James Moreno, Chairperson called meeting to order at 4:01 P.M.

ATTENDANCE:

Members Present:

John Stetler
Carlyle Sims
James Moreno

Bill Hanner
Noris Lindsey
Michael Delaware

Staff Present:

Marcel Stoetzel, Deputy City Attorney
Glenn Perian, Senior Planner, Planning Dept.
Michele K. Jayakar, CSR II, Planning Dept.

ADDITIONS OR DELETIONS TO THE AGENDA: None

CORRESPONDANCE: None

OPENING COMMENTS: *Mr. Jim Moreno, Chairperson stated the meeting procedure where everyone present may speak either for or against an appeal and that he will ask for a staff report to be presented and then open the public hearing. At the public hearing, persons may come forward and state their name and address for the record as it is being recorded and then speak either for or against an appeal. The public hearing will then be closed and the zoning board will discuss and make a decision. If a petition has been denied the petitioner has the right to appeal to Circuit Court.*

OLD BUSINESS: None

NEW BUSINESS:

A. Z-09-19 (RE: 321 E. Emmett St.):

Z-09-19, Jon and Ben Davis, of Davis Oil, 1265 E. Columbia Ave., Battle Creek, MI, are requesting a dimensional variance from the landscaping/buffering requirements between parking and driving aisles between residentially zoned property and street right-of-ways on commercially zoned property at 321 E. Emmett St., Battle Creek, MI, Property ID# 3270-00-001-0.

Chairman Moreno asked for a staff report; Glenn Perian gave a verbal staff report recommending approval of appeal Z-09-19,

Chairman Mr. Moreno asked the applicant to come forward and speak regarding the request for a variance.

Cody Newman, of 11 Carlisle, spoke on behalf of the owner. He noted the dimensional variance actually allowed for more greenspace than the current zoning ordinance. He also noted that the new layout, by moving the majority of the landscaping to the corner will allow for better safety of vehicles pulling in and out of the lot.

Ben Davis also came forward to note that the new plan allows for more space to safely pull in and out of the parking lot as well as safely navigating the gas pumps. He has also spoken to neighbors about their concerns and intends to control lighting to minimize effect on homes in the area.

Chair Mr. Moreno asked if there are any members of the public present to either speak for or against the variance request.

There was no public to comment.

Chair Mr. James Moreno asked if there was any further discussion; seeing none, he would close the Public Hearing and entertain a motion.

MOTION WAS MADE BY MR. BILL HANNER TO APPROVE APPEAL #Z-09-19 FOR A DIMENSIONAL VARIANCE FROM THE LANDSCAPING/BUFFERING REQUIREMENTS BETWEEN PARKING AND DRIVING AISLES BETWEEN RESIDENTIALLY ZONED PROPERTY AND STREET RIGHT-OF-WAYS ON COMMERCIALLY ZONED PROPERTY AT 321 E. EMMETT ST., BATTLE CREEK, MI, PROPERTY ID# 3270-00-001-0. THE MOTION WAS SUPPORTED BY MR. CARLYLE SIMS.

THE BOARD BRIEFLY DISCUSSED THE REQUEST. WHEN DISCUSSION WAS COMPLETE CHAIRMAN JAMES MORENO ASKED FOR A VOTE; SIX APPROVED (JOHN STETLER, MICHAEL DELAWARE, BILL HANNER, JAMES MORENO, CARLYLE SIMS AND NORIS LINDSEY); MOTION APPROVED.

Chairman James Moreno asked for a motion approving the May 14, 2019 meeting minutes.

MOTION WAS MADE BY MR. BILL HANNER TO APPROVE THE MAY 14, 2019 ZONING BOARD OF APPEALS MEETING MINUTES, THE MOTION WAS SUPPORTED BY CARLYLE SIMS. ALL IN FAVOR; NONE OPPOSED; MINUTES APPROVED.

COMMENTS BY THE PUBLIC: None

COMMENTS BY THE MEMBERS / STAFF:

Mr. Bill Hanner commented on the great job Mr. Davis had done by contacting the neighbors surrounding the property to assess their desires/needs before coming to the board.

ADJOURNMENT: Chairman James Moreno adjourned the meeting at 4:14 P.M.

Submitted by: Michele K. Jayakar, Customer Service Rep. II, Planning Dept.



Battle Creek Zoning Board of Appeals

Staff Report

Meeting: August 13, 2019
Appeal #Z-10-19

To: Zoning Board of Appeals
From: Glenn Perian, Senior Planner
Date: July 31, 2019
Subject: Petition for a dimensional variance (Z-10-19) to permit the construction of detached accessory building in a water front yard, 8' from a side lot line and approximately 5' from the water front property line on Goguac lake at 614 Jennings Landing in an R-1B zoning district.

Summary

This report addresses a petition from Mehmet Ismailoglu, seeking approval of a Dimensional Variance (Z-10-19), to waive the setback requirement and yard requirement for accessory structures on a lake front property at 614 Jennings Landing. The Applicant is intending to create a waterfront patio area on the property and build a new storage building in the northeast corner of the lot. The Applicant would like to build a 12' x 20' detached building on the lakefront side of the property 8' from the side property line and approximately 5' to the lakeside property line contrary to Ch. 1286.05 LOCATIONS

- (a) "Accessory buildings shall not be erected in the front yard of a lot or parcel, unless otherwise provided herein... Parcels having frontage on a lake, brook, stream, river or other watercourse shall be allowed an accessory building in the waterfront front yard provided it observes front and side yard setbacks required for the main residential building."

In this case, the lakefront setback is 25' and the side yard setback is 8'.

The Applicant states the extreme slope of the property closest to the lake prevents them from building the storage building in accordance with ordinance standards. The Applicant also has stated that their neighbors have the same limitations associated with their lakefront lots and that storage buildings are closer to the lake than permitted by ordinance. There is a survey/sketch drawing of the proposed project included in your packet and the appellant is expected to be at the hearing to discuss any questions you may have related to this request.

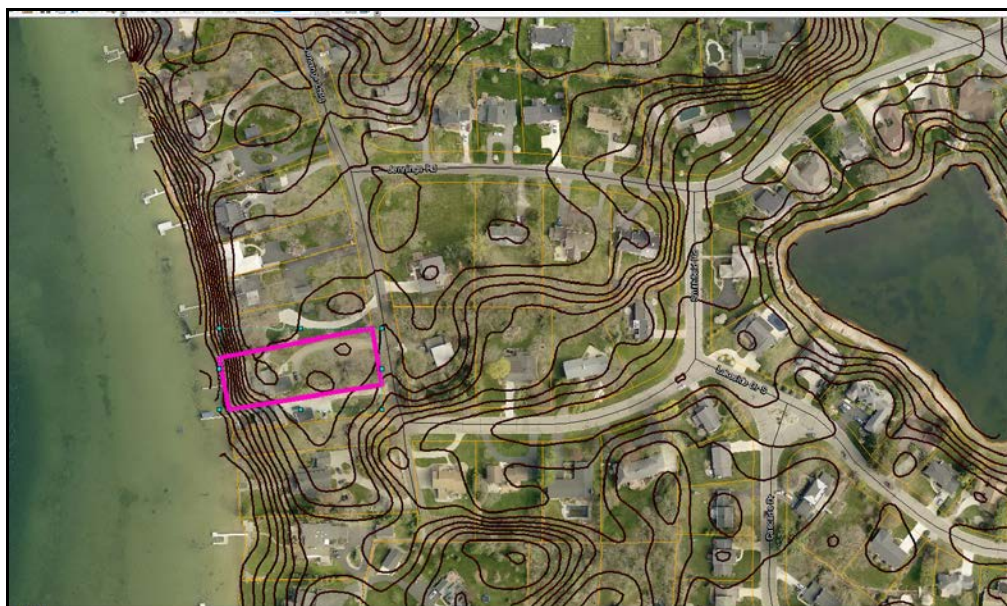
Legal Description

WILLARD WOODS LOT 139

Public Hearing and Notice Requirements

An advertisement of this public hearing was published in the Battle Creek SHOPPER NEWS on Thursday, July 25, 2019 – not less than the 15 days before the hearing as required by State Law and ordinance.

Notices of the public hearing were also sent by regular mail to 18 property owners and occupants located within 300 feet of the subject parcel. As of the writing of this report, planning staff has not received any correspondence related to this request.



614 Jennings Landing (with 2' contour lines)

Applicable Zoning Ordinance Provisions

Chapter 1234.04 states:

b) The Board shall have the authority to grant the following variations:

(1) Nonuse. If there are practical difficulties for nonuse variances relating to the construction, structural changes, or alterations of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance in the way of carrying out the strict letter of the zoning ordinance, then the Board may grant a variance so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice is done. The Board may impose conditions as otherwise allowed under the Michigan Zoning Enabling Act, MCL 125-3101 et seq.; and

(c) Variance Standards. In consideration of all appeals and proposed exceptions to or variations from this Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the applicant has met all of the following conditions as set out for the specific type of variance requested:

(1) Nonuse (dimensional) Variances:

A. When it can be shown that a practical difficulty would, in fact, exist if the strict non-use requirements of this zoning ordinance (e.g., lot area, width, setbacks, building height, etc.) were applied to a specific building project, the Board may grant a variance from these requirements. The practical difficulty from a failure to grant the variance must include substantially more than a mere inconvenience or a mere inability to attain a higher financial return.

B. The practical difficulty must be exceptional and peculiar to the subject parcel of land which do not generally exist throughout the City and may not be self-imposed or the result of an earlier action by the applicant. If the parcel of land could be reasonably built upon in conformance with the requirements of this zoning ordinance by simply relocating or redesigning the structure(s), then a variance shall not be granted.

C. A variance shall not be granted when it will alter or conflict with the intent of this Ordinance considering the public benefits intended to be secured by this Zoning Code and the rights of others whose property would be affected by the allowance of the variance.

D. Any variance granted shall be the minimum necessary to provide relief for the practical difficulty of the applicant.



614 Jennings Landing and area of lakeside patio

Analysis

Staff has reviewed the application and finds that it meets the requirements for submittal and is considered complete. The Appellant is requesting a variance from the 25' lakefront yard setback for accessory structures located on lake front property in residential zoning districts. City records show the lot approximately 100' wide by 308' long with approximately a 15' drop in elevation from the home to the lake making the property unique. There are other accessory buildings located along the lake and we don't think approval of this request will alter the character of the neighborhood in any way. We also think that because of the severe slope of the property the storage building will have a limited impact on neighboring property owner's enjoyment of the lake. The Appellant has supplied additional reasons supporting the request for appeal and they are included with the application and part of this report.

Findings and Recommendation

The Zoning Board of Appeals can approve, approve with conditions, or deny this request. The Zoning Board of Appeals can also table or postpone the request pending additional information. In consideration of all variations from the Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the conditions listed below are satisfied. Planning staff has reviewed these conditions and we believe that each condition can be justified in an affirmative manner. The fact that the lot slopes approximately 15' from the grade at the house to the lake makes this property unique. We have provided a rationale for each condition set forth below for

Dimensional Variances and the Planning staff recommends that the Zoning Board of Appeals approve the Dimensional Variance (Z-10-19) based on the following findings contained in this staff report.

- A) Staff finds that practical difficulty does in fact exist if the strict requirement of the ordinance is applied to this specific building project and that the Board is authorized to approve the variance in this case. The practical difficulty includes the slope of the land preventing the owners from placing an accessory building in the lake side yard of the lot and complying with the setback requirement of 25' from the waterfront.
- B) Staff believes that the practical difficulty is exceptional and peculiar to the subject parcel and the conditions associated with the property generally do not exist throughout the City. The limitations of the lake front properties along this portion of Jennings Landing make complying with the ordinance standards for accessory buildings extremely difficult, especially for this applicant. The slope of the lot makes this property unique and these conditions do not generally occur in other parts of the City.
- C) Staff does not believe that if the variance is granted that the intent of the Ordinance will be altered or that the rights of others will be compromised in that the conditions associated with this particular property is unique and that the impact of the building is anticipated to be minimal to neighboring property owners.
- D) Staff does not believe that the variance requested exceeds the minimum necessary to provide relief from any stated practical difficulty in that the appellant is not asking for anything more than a storage building in a lakeside yard and the slope of the land makes it difficult to comply with ordinance requirements.

Attachments:

The following information is attached and made part of this Staff Report.

- 1. ZBA Petition Form (Petition #Z-10-19)
- 2. Sketch and survey of proposed project

2-10-19

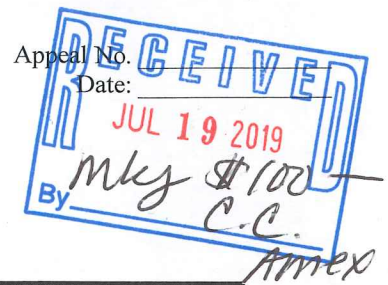


City of Battle Creek

Community Services – Planning and Zoning Division

City Hall • 10 N. Division Street, Ste. 117 • Battle Creek, Michigan 49014

Ph (269) 966-3320 • Fax (269) 966-3555 • www.battlecreekmi.gov



APPLICATION FOR A VARIANCE ZONING BOARD OF APPEALS

An Appeal to the Zoning Board of Appeals to authorize a variance from the requirements of the Planning and Zoning Code (Part Twelve) of the City of Battle Creek.

Name of Appellant: Mehmet Ismailoglu Ismailoglu

Address: 614 Jennings Landing Phone: 269 274-3142

Name of Owner (if different from Appellant): Mehmet Ismailoglu@gmail.com

Address: _____ Phone: _____

TO THE ZONING BOARD OF APPEALS: Request is hereby made for permission to:
(Choose One) Extend Erect Appeal Use Convert Enclose

Description: _____

12' x 12' x 12' Storage Shed on water front edge.

Contrary to the requirements of Section(s) _____ of the Planning and Zoning Code, upon the premises known as _____ Battle Creek, MI, in accordance with the plans and/or plat record attached.

The proposed building or use requires Board action in the following area(s):

Set back restriction

Property/Tax I.D. # No. 9610 - 25 - 039 - 0 Size of the Lot: Width _____ Depth _____

Size of Proposed Building: Width 12' Depth 12' Height 12'

The following reasons are presented in support of this appeal (complete each section):

- (a.) This property cannot be used in conformance with the ordinance without the requested variance because:

Retaining Wall won't allow set
back

- (b.) This problem is due to a unique situation not shared in common with nearby property owners because:

Newly build retaining wall

- (c.) Granting the variance would not alter the essential character of the area because:

There are existing sheds on nearby
and our property.


- (d.) The problem is not self-created because:

The geography of the property - extremely
high slope

- (e.) **USE VARIANCES ONLY** It is not possible to use this particular property for any other use currently allowed in the zoning district because:

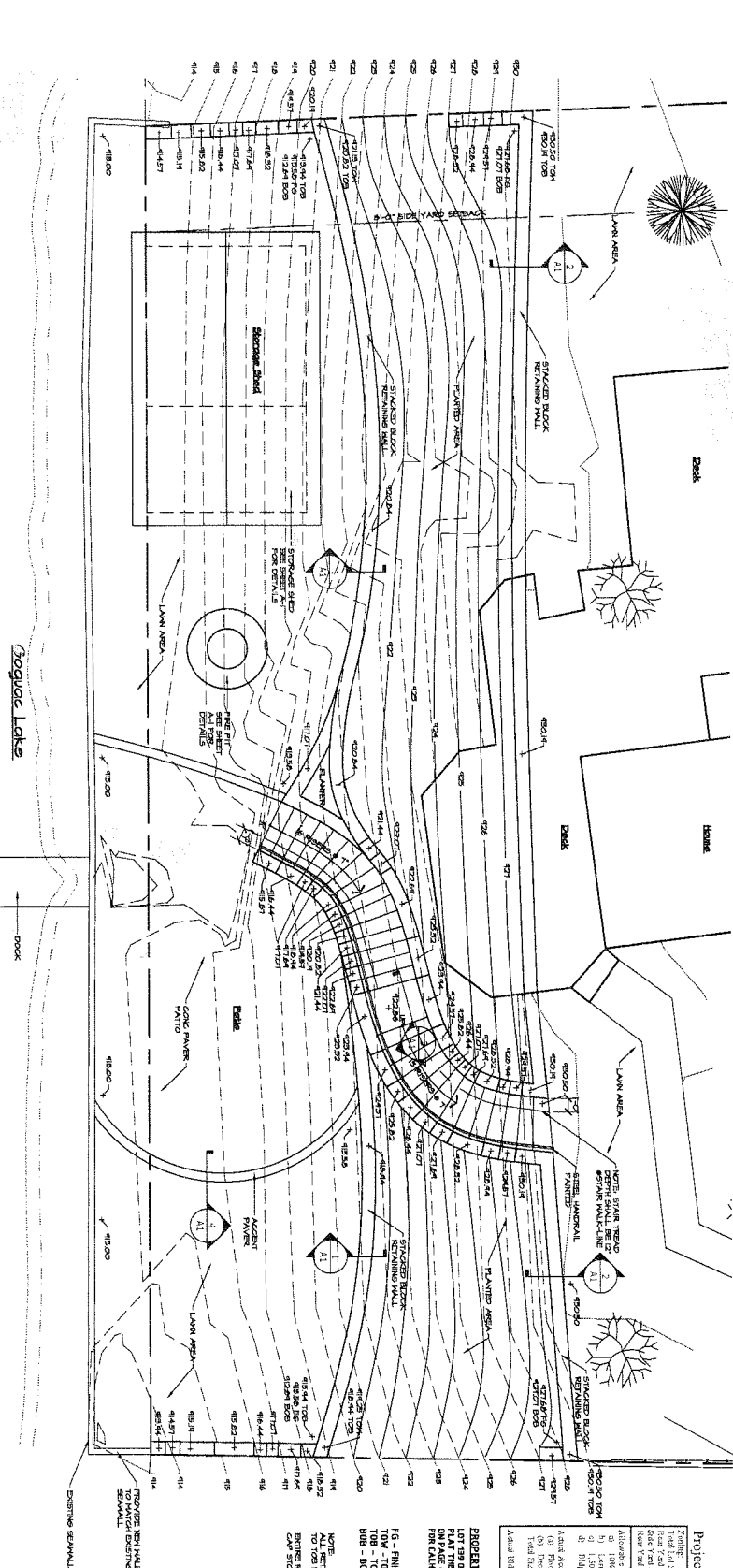
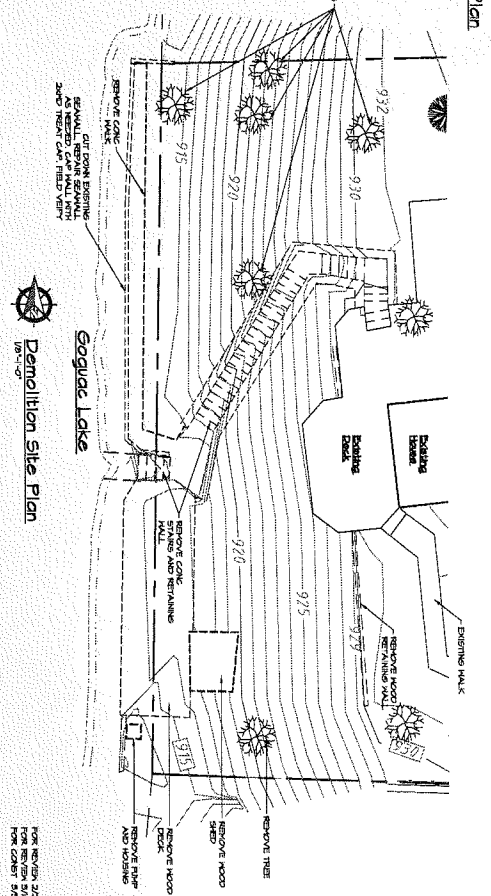
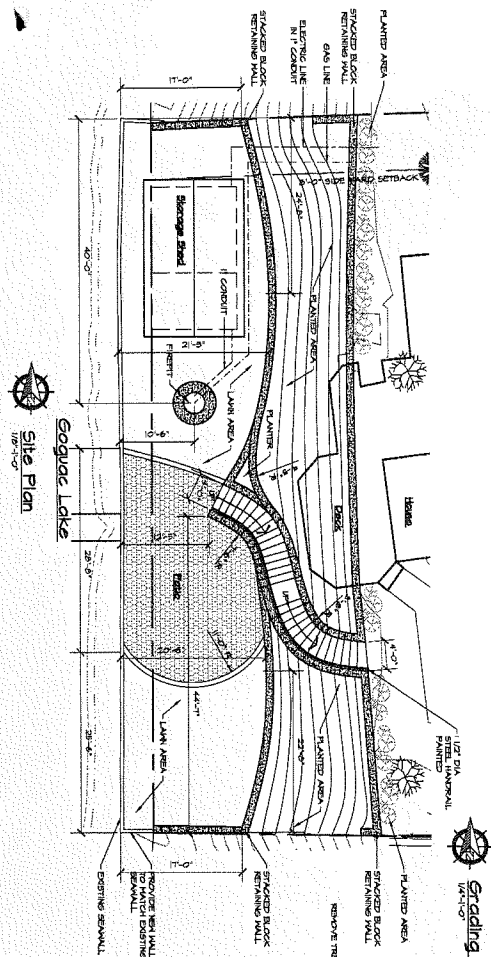
I hereby affirm that, to the best of my knowledge, all the above and accompanying statements and drawings are correct and true. In addition, I give permission to the City of Battle Creek's Planning Department staff to access my property, if necessary, to take photographs of the subject of this appeal.

Mehmet Ismailoglu
(Print Appellant Name)


(Signature of Appellant)

614 Jennings Landing
(Address of Appellant)

If you require additional information or assistance in filling out this application, please contact the Planning Department at (269) 966-3320.

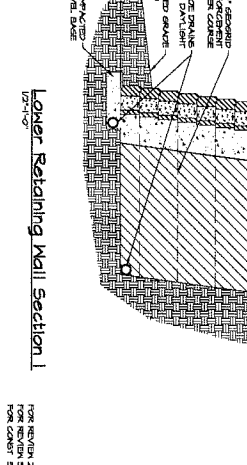
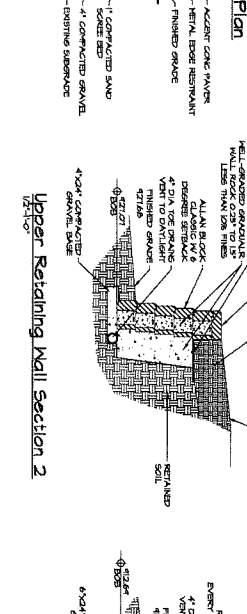
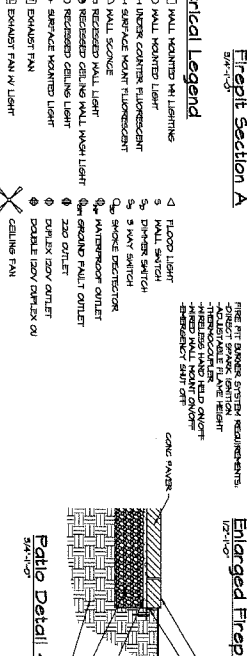
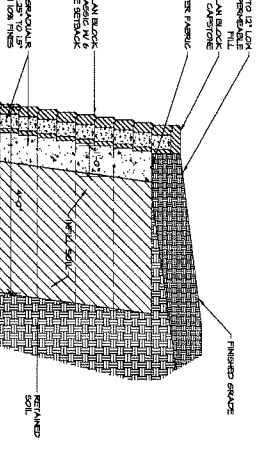
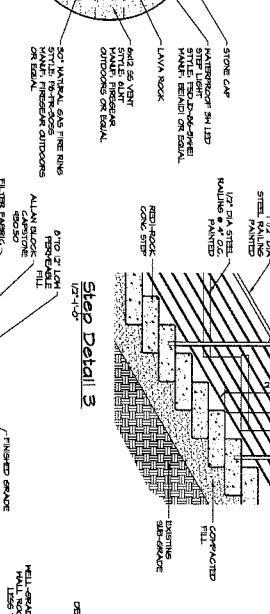
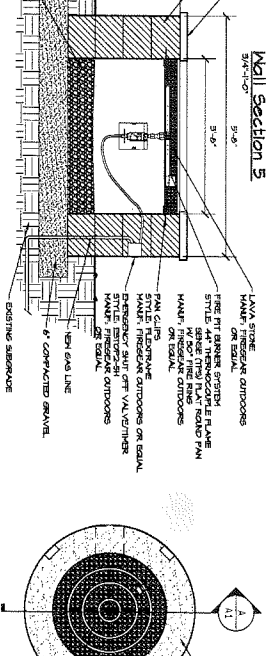
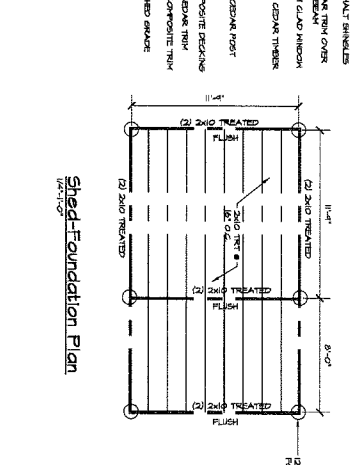
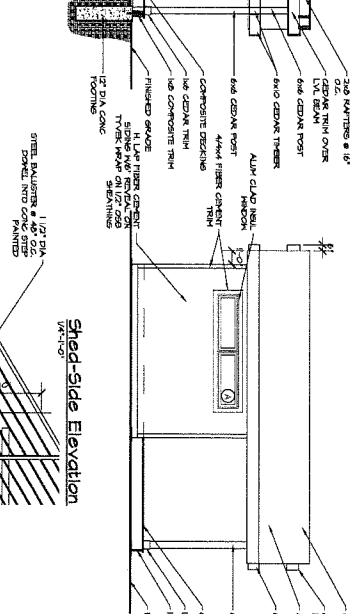
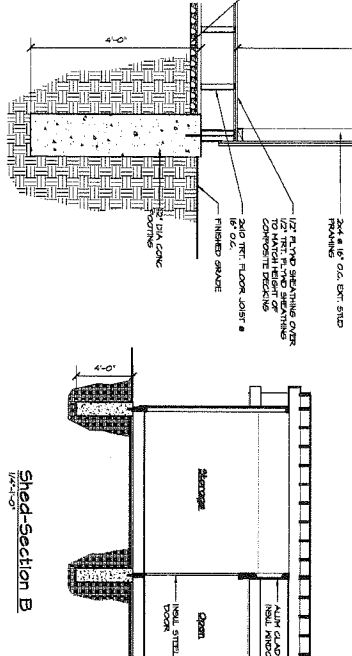
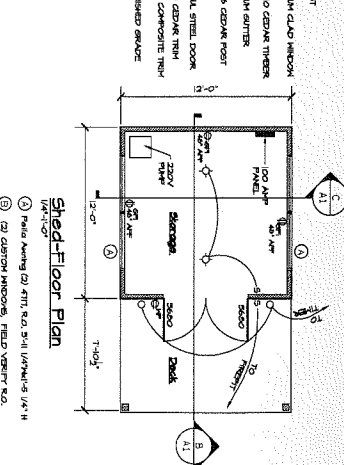
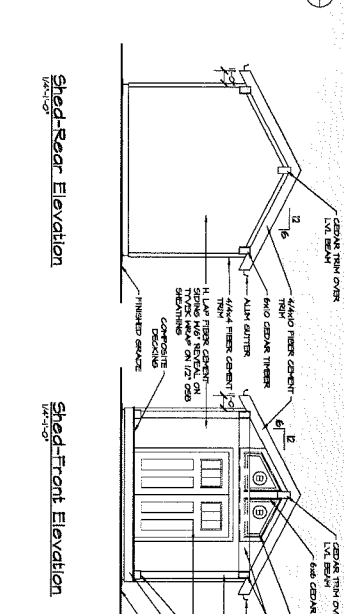
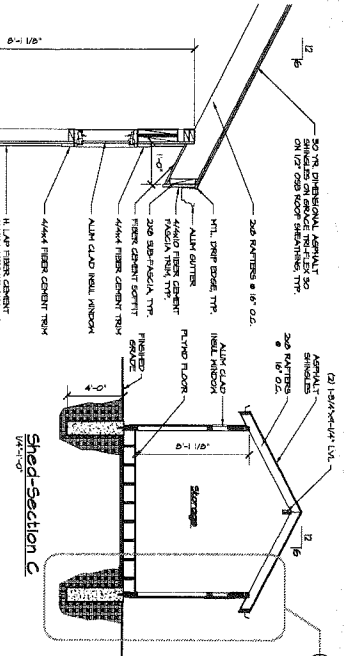
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PROPERTY TAXABLE LOTS:
LOT 139 OF "WALLACE WOODS" ACCORDING TO THE
DEED DATED 12-1-78, RECORDED IN THE PUBLIC
RECORDS IN THE OFFICE OF THE REGISTER OF DEEDS
FOR CALHOUN COUNTY, MICHIGAN.

FG - FINISHED GRADE
TOW - TOP OF WALL
TOS - TOP OF SLURK
BOS - BOTTOM OF SLURK

NOTE:
ALL REMAINING WALL REMAINERS ARE
TO BE DASHED OR BOWED NOTED
BEING REMAINING WALL TO RECEIVE A
CUT STONE

ALL REINFORCING WALL ELEVATIONS ARE TO TOP UNLESS OTHERWISE NOTED



1804
 Plans & Details
 A-1